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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL. 31, 1995

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

MEMORANDUM

SUBJECT: Superfund Groundwater RODs: Implementing Change
This Fiscal Year

FROM: Elliott P. Laws. /s/
Assistant Administrator

TO: Regional Administrators, Regions I - X
Director, Waste Management Division
Regions I, IV, V, VII
Director, Emergency and Remedial Response Division
Region II
Director, Hazardous Waste Management Division
Regions III, VI, VIII, IX
Director, Hazardous Waste Division
Region X
Director, Environmental Services Division
Region I, VI, VII



At the recent meeting of Waste Management Division Directors in Kansas City, we discussed the importance of consistent national implementation of the Superfund program. We stressed in particular, Records of Decision (RODs) that you are planing to sign this fiscal year for sites with groundwater contamination.

During our meeting, we discussed the fundamental changes that have occurred in the program's approach to sites with contaminated groundwater where contamination may be "technically impracticable" to restore to drinking water standards (e.g., where contaminants such as dense non-aqueous phase liquids (DNAPLs) warrant our use of a waiver of Federal and/or State clean-up standards (ARARs)). Based on the information now available on the special problems associated with DNAPL sites, OSWER expects that Technical Impracticability (TI) waivers will generally be appropriate for these sites. These situations demand a flexible, phased approach to groundwater remediation such as use of interim RODs, "no action" alternatives, natural attenuation, TI waivers, etc.

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To reiterate a major point of our discussion, I expect each Region to employ the TI waiver in appropriate remedy selection documents this fiscal year. I am concerned with preliminary data, indicating that about 30 out of 90 groundwater RODs planned for this fiscal year address sites with DNAPLs, but fewer than 10 TI waivers of ARARs have been planned for these RODs to date. I am concerned that these RODs may not fully reflect the current state of information about sites with DNAPLs present.

Beginning immediately, RODs addressing DNAPL contamination that do not follow the policy in favor of TI waivers at such sites must include written justification for that departure from this policy. If you feel the data are incomplete on whether a TI waiver is justified, or that there is insufficient time this fiscal year to coordinate ROD changes, I am directing you to utilize an interim ROD or to postpone signing the ROD until the data become available and/or sufficient coordination among Federal/State/Tribal/community/PRP/other stakeholders can occur. I will adjust Regional Superfund accomplishment planning targets accordingly.

Our Superfund policy guidances recognize that we can protect our groundwater resources and, at many sites, remediate large quantities of contaminated groundwater. However, they also identify situations, such as those described above, where technical, time, and cost limitations demand a more limited approach. I want to be sure you are taking command of these critical groundwater remedy selection decisions at both Federal facility and non-Federal facility Superfund sites. I have asked the Headquarters Superfund Regional Coordinators to follow up with Regional staff on this and other key remedy selection issues (land use designation, presumptive remedies, and adherence to lead policy) over the next few weeks.

Please contact me or Steve Luftig at (703) 603-8960 if you have any questions concerning these critical consistency issues.

cc: Steve Herman
Tim Fields
Jim Mathews
Jerry Clifford
Earl Salo
Mike Shapiro
Walt Kovalick
Steve Luftig
Jim Woolford

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